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Marinette and Western Railroad Company

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Recommended Citation

H.R. Rep. No. 692, 52nd Cong., 1st Sess. (1892)

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MARINETTE AND WESTERN RAILROAD COMPANY.

MARCH 14, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LYNCH, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 5133.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 5133) to grant the Marinette and Western Railway Company a right of way through the Menomonee Indian Reservation, in the State of Wisconsin, submit the following report:

The committee has fully considered the above-described bill, and herewith report the same back with amendments recommended by the committee, and amendments recommended by the honorable Secretary of the Interior and Commissioner of Indian Affairs, which amendments are herein incorporated, and their passage recommended.

Insert after the word "graded" in the eighth line on page 5, the following:

And also fifteen dollars per mile per annum so long as such reservation shall be used and occupied as a reservation by said tribe of Indians.

Also amend by adding a new section, to be designated as section 11, as follows:

SEC. 11. That said railway shall not charge more for the transportation of freight or passengers through said reservation than for like services outside of the same.

The honorable Secretary of the Interior and the honorable Commissioner of Indian Affairs recommend the following amendments:

Add after the word "county" in the eleventh line of section 1, the following: "and township thirty in range sixteen, Oconto County."

Add after the word "stations" in the seventh line of section 2, the following: "purposes not to exceed one station."

Strike out the words "the chief of the nation" after the word "by" in the twelfth line on page 3, and insert the words, "the Menomonee Indians in general council."

Add at the end of section 3 the following:

Provided, That all costs of appraisement and compensation of referees shall be paid by the railway company.

Add at the end of section 4 the following:

Provided, That the title to all timber on the right of way herein granted shall remain in the Menomonee tribe of Indians, and shall be sold and disposed of for the benefit of said Indians under the direction of the Secretary of the Interior, all such timber to be removed within a reasonable time after the filing of maps of definite location of the right of way by said company, and the approval thereof by the Secretary of the Interior, to the end that the company shall not be hindered or delayed in the construction of its road.

The committee respectfully reports that it has examined the said bill in detail, and that all of the amendments proposed by the honorable Secretary and Commissioner of Indian Affairs are fully set forth in this report; it recommends the adoption of the foregoing amendments, and that when the bill is so amended, that it be passed.

The committee further reports that the said bill is in the usual form and contains all the usual restrictions and protective features and provisions contained in such bills.

DEPARTMENT OF THE INTERIOR,
Washington, March 3, 1892.

SIR: I have the honor to transmit herewith copy of a communication of 1st instant, from the Commissioner of Indian Affairs, in reply to your communication to him in the matter of H. R. 5133, a bill to authorize the Marinette and Western Railway Company to construct a railroad through the Menomonee Reservation in the State of Wisconsin.

The Commissioner suggests certain amendments to the bill, and states that "further than as herein indicated his office knows of no reason why the bill should not pass."

As section 3 of the bill provides, in case of failure to make amicable settlement with any occupant, the compensation shall be determined by three disinterested referees, each of whom shall receive \$4 per day for each day they are engaged, with mileage at 5 cents per mile, I am of opinion that said bill should be further amended so that the cost of appraisements, including compensation of referees, shall be made a part of the award and be paid by the railway company.

With these amendments, I see no objection to the passage of the bill.

Very respectfully,

JOHN W. NOBLE,
Secretary.

Hon. THOMAS LYNCH,
House of Representatives.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 1, 1892.

SIR: This office is in receipt of a communication of the 23d instant from Hon. Thos. Lynch, a member of the Committee on Indian Affairs, House of Representatives, inclosing H. R. bill No. 5133, a bill to authorize the Marinette and Western Railroad Company to construct a railroad through the Menomonee Reservation, in the State of Wisconsin, requesting the opinion of this office relative to the passage of the same.

The bill invests the company with the right to locate, construct, equip, operate, use, and maintain a railroad, telegraph, and telephone line, running in an easterly and westerly direction, in, on, upon, and through the northern tier of townships of said reservation designated as township 30, in ranges 13, 14, and 15, in Shawano County, and township 30, range 16, in Oconto County, in Wisconsin, with the right to construct, use, and maintain such tracks, turnouts, and sidings as said company may deem it to their interest to construct along and upon the right of way and depot grounds therein provided for. Section 2 authorizes the company to take and use for all purposes of a railroad, telegraph and telephone line, and for no other purpose, a right of way 100 feet in width through the reservation, and to take and use a strip of land 200 feet in width, with the length of 3,000 feet, in addition to the right of way, "for stations, for every 6 miles of road."

The other provisions of the bill are substantially the same as those incorporated in the many other bills providing for right of way of railroads through Indian reservations passed during the last five or six years.

It is suggested that the expression "for stations for every 6 miles of road" in line 7 of section 2 is ambiguous, and the bill should be amended by striking out said words and substituting in the place thereof "for station purposes, not to exceed one station for every six miles of road."

Line 9 of section 4 should also be amended by inserting after the word "mile" and before the word "so" the words "per annum."

It is also suggested that after the word "provision" in the twenty-sixth line of section 4 should be added, by amendment.

"Provided, That the title to all timber on the right of way herein granted shall remain in the Menomonee tribe of Indians, and shall be sold or disposed of for the benefit of said Indians under the direction of the Secretary of the Interior, all such timber to be removed within a reasonable time after the filing of maps of definite location of the right of way by said company and the approval thereof by the Secretary of the Interior, to the end that the company shall not be hindered or delayed in the construction of its road."

It will be observed that the bill inclosed has a proposed amendment, in pencil, inserted after the word "county" and before the word "State" in the eleventh line of the first section of the words "and township thirty," range sixteen, in Oconto County. The amendment should be made as indicated, as range 16 township 30 in Oconto County is within the Menomonee Reservation.

It is also the opinion of this office that it would be more satisfactory to the Indians to amend section 3 of the bill by striking out in the twelfth line thereof the words "by the chief of the nation," and insert in lieu thereof the words "by the Menomonee Indians in general council."

Further than as herein indicated, this office knows of no reason why said bill should not pass.

The bill, with copy of office letter of the 15th instant, and its inclosures, is transmitted herewith.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

THE SECRETARY OF THE INTERIOR.

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